

**BOARD OF REAL ESTATE APPRAISERS
BOARD MEETING MINUTES – December 7, 2004**

MEMBERS PRESENT

James Murphy
Bruce Bell
Walter Bowditch
Kenneth Charest
Joseph Herlihy
Theodore Webersinn
David Adams

MEMBERS ABSENT

OTHERS PRESENT

Carol Leighton, Administrator
Dennis Smith, A.A.G.
Kim Baker-Stetson, Licensing Clerk
Susan Greenlaw, Board Clerk

Location: Central Conference Room

Start: 9:10 a.m. **Adjourn:** 6:30 p.m.

CALL TO ORDER

The meeting was called to order at 9:10 a.m.

AGENDA MODIFICATIONS

Members agreed to add the following:

- Letter from Mary Ellen Hurteau
- First Exposure Draft on proposed revisions to STANDARDS 9 and 10 of the USPAP

OLD BUSINESS

Action on Minutes of November 2, 2004 Meeting

A motion was made by Theodore Webersinn to approve the minutes of the November 2, 2004 meeting as written; seconded by Walter Bowditch. Bell, Bowditch, Charest, Herlihy, Murphy, and Webersinn voted in the affirmative; none opposed; Adams abstained. Motion carried.

Action on Tabled Applications/Items

NEW BUSINESS

Hearings

Tammy L. Moynihan (complaint #REA-190): A motion was made by Walter Bowditch to accept a proposed consent agreement which includes the voluntary surrender of license and payment of costs associated with the investigation; seconded by Theodore Webersinn. Bell, Bowditch, Charest, Murphy, and Webersinn voted in the affirmative; Adams opposed; Herlihy abstained. Motion carried.

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The Chair opened the hearing in the matter of Rod Berube. Mr. Berube was present and not represented by counsel. Assistant Attorney General Dennis Smith represented the State in this matter. James Smith, Esq. was present as Hearing Officer and Counsel for the Board. Public deliberations were conducted at the close of the hearing.

A motion was made by Bruce Bell to find the licensee in violation of 32 M.R.S.A. §14014(1)(I); seconded by Walter Bowditch. Unanimous.

A motion was made by Bruce Bell to find the licensee in violation of 32 M.R.S.A. §13982(1)(J); seconded by Theodore Webersinn. Unanimous.

A motion was made by Theodore Webersinn to find the licensee in violation of 32 M.R.S.A. §14014(1)(G); seconded by Bruce Bell. Unanimous.

A motion was made by Theodore Webersinn to find the licensee in violation of USPAP Conduct Section of the Ethics Rule; seconded by David Adams. Unanimous.

A motion was made by Bruce Bell to find the licensee in violation of USPAP Standards Rule 1-1(b); seconded by David Adams. Unanimous.

A motion was made by Walter Bowditch to find the licensee in violation of USPAP Standards Rule 1-1(c); seconded by Theodore Webersinn. Unanimous.

A motion was made by Kenneth Charest to find the licensee in violation of USPAP Standards Rule 1-4(g); seconded by Theodore Webersinn. Unanimous.

A motion was made by Kenneth Charest to find the licensee in violation of USPAP Standards Rule 1-5(b)(i); seconded by Theodore Webersinn. Unanimous.

A motion was made by Theodore Webersinn to find the licensee in violation of USPAP Standards Rule 2-1(a); seconded by Walter Bowditch. Unanimous.

A motion was made by Bruce Bell to order the licensee to pay costs associated with the hearing not to exceed \$3,000; seconded by Theodore Webersinn. Unanimous. A motion was made by Kenneth Charest to order the licensee to pay the costs within 45 days; seconded by David Adams. Unanimous.

A motion was made by David Adams to order the licensee to pay fines in the amount of \$1,500 per violation; seconded by Theodore Webersinn. Adams voted in the affirmative; Bell, Bowditch, Charest, Murphy, and Webersinn opposed. Motion failed.

A motion was made by Kenneth Charest to order the licensee to pay fines in the amount of \$1,000 per violation; seconded by Theodore Webersinn. Adams, Charest, Murphy, and Webersinn voted in the affirmative; Bell and Bowditch opposed. Motion carried. A motion was made by David Adams to order the licensee to pay the fines on or before 12/07/2005; seconded by Theodore Webersinn. Unanimous.

A motion was made by David Adams to order the revocation of the licensee's license; seconded by Theodore Webersinn. Adams voted in the affirmative; Bell, Bowditch, Charest, Murphy, and Webersinn opposed. Motion failed.

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A motion was made by Theodore Webersinn to order the suspension of the licensee's license for a period of 90 days per violation (27 months); seconded by David Adams. Unanimous.

Administrator's Report

Complaint Officer's Report

#REA-195/196: Tabled for further investigation.

#REA-199: A motion was made by Kenneth Charest to find the licensee in violation of 14014(I)(J)(G), USPAP Conduct Section of Ethics Rule and Standards Rule 1-1(b) and 1-4 and offer a consent agreement to include a \$1500 fine payable within 30 days, costs payable within 30 days, 30 hour course with exam, 15 hour USPAP course within 6 months; seconded by Theodore Webersinn. Unanimous.

#REA-200: Tabled.

#REA:202: Tabled.

#REA-204: Tabled.

Review and Action on Applications and Education

NAME	APPLYING TO	ACTION
APPLICANT #1	RECIPROCITY FROM NOVA SCOTIA, CANADA MIN 180 QE BAL MET? = MIN 30 MONTHS EXP MET? = MIN 3000 EXP HRS MET? =	12/07/04 – REQUESTED 1 COMPLETE NARRATIVE COMMERCIAL PROPERTY APPRAISAL REPORT MOTION BY CHAREST SECONDED BY WEBERSINN ADAMS, BELL, CHAREST, HERLIHY, MURPHY, AND WEBERSINN VOTED IN THE AFFIRMATIVE BOWDITCH OPPOSED MOTION CARRIED.

Trainee Appraisal Audit Review

Tabled to January meeting.

Board Rules Chapter 240 - Adoption

Chapter 240 – Comment period ended on November 26. No comments were received. A motion was made by Theodore Webersinn to adopt the rules as proposed; seconded by David Adams. Unanimous.

Correspondence

Letter from the Appraisal Institute: A motion was made by David Adams to table until the Board Clerk is available for the discussion; seconded by Walter Bowditch. Unanimous.

Letter from the Maine Chapter of the Appraisal Institute: The Board received a letter from the Maine Chapter requesting clarification of the Maine laws relating to the current exemption for

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real estate licensees to perform certain appraisals. Mr. Paul C. Linehan, President of the Maine Chapter, attended for the purpose of presenting the issues and answering questions.

A motion was made by Joseph Herlihy that the Board will not consider introducing any legislation at this time and recommend that the Maine Chapter of the Appraisal Institute initiate actions to address the issues as presented; seconded by Bruce Bell. Bell, Herlihy, and Murphy voted in the affirmative; Adams, Bowditch, Charest, and Webersinnn opposed; no abstentions. Motion failed.

A motion was made by Kenneth Charest to encourage the Appraisal Institute to initiate legislative action and include this issue on the Board's agenda for action in June 2005; seconded by Theodore Webersinn. Bell, Charest, Bowditch, Murphy, and Webersinn voted in the affirmative; Adams and Herlihy opposed; Motion carried.

Letter from the Appraisal Subcommittee: A motion was made by David Adams to place the letter on file; seconded by Joseph Herlihy. Unanimous.

First Exposure Draft on proposed revisions to STANDARDS 9 and 10 of the USPAP: A motion was made by David Adams to table discussion until the January meeting; seconded by Walter Bowditch. Unanimous.

Next Meeting Scheduled for January 4, 2005

OTHER BUSINESS

ADJOURN

Being no further board business the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Susan Greenlaw
Board Clerk